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Attorneys for Official Committee of Unsecured Creditors

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

**In Re:**

**USA Commercial Mortgage Company  
06-10725 – Lead Case**

**USA Capital Realty Advisors, LLC  
06-10726**

**USA Capital Diversified Trust Deed Fund,  
LLC  
06-10728**

**USA Capital First Trust Deed Fund, LLC  
06-10728**

**USA Securities, LLC  
06-10729**

**Debtors.**

Jointly Administered

Chapter 11 Cases

Judge Linda B. Rieggle Presiding

**APPLICATION BY OFFICIAL  
COMMITTEE OF UNSECURED  
CREDITORS TO EMPLOY LEWIS  
AND ROCA LLP AS COUNSEL FOR  
THE CREDITORS' COMMITTEE**

Date: N/A

Time: N/A

**Affecting:**

.. All Cases

**or Only:**

× USA Commercial Mortgage Company

.. USA Capital Realty Advisors, LLC

.. USA Capital Diversified Trust Deed Fund,  
LLC

.. USA Capital First Trust Deed Fund, LLC

The Official Committee of Unsecured Creditors of USA Commercial Mortgage Company (the "Committee"), applies for retention of the law firm of Lewis and Roca LLP, a limited liability partnership ("Lewis and Roca") as counsel for the Committee pursuant to 11 U.S.C. § 1103(a) and Rule 2014(a), Federal Rules of Bankruptcy Procedure and requests the Court to enter an Order approving this Application nunc pro tunc to the

1 inception of these cases. In support of this Application, the Committee and its prospective  
2 counsel respectfully represent as follows:

3 1. On April 13, 2006, voluntary Chapter 11 petitions were filed by: USA  
4 Commercial Mortgage Company; USA Capital Diversified Trust Deed Fund, LLC; USA  
5 Capital Realty Advisors, LLC; USA Capital First Trust Deed Fund, LLC; and USA  
6 Securities, LLC.

7 2. On May 16, 2006, a Notice of Appointment of Official Committee of  
8 Unsecured Creditors for USA Commercial Mortgage Company was filed by the Office of  
9 the United States Trustee.

10 3. The Committee had considered retaining the firm over some time,  
11 interviewed the firm on May 26, 2006, and on June 1, 2006 the Committee formally  
12 decided to retain Lewis and Roca as its counsel. Lewis and Roca has specialized expertise  
13 in the area of bankruptcy, insolvency and reorganization matters, as well as extensive  
14 expertise in general commercial litigation, real estate, securities, commercial transactions,  
15 and general business law. The Committee also selected Lewis and Roca because of its  
16 familiarity with the Bankruptcy Court's procedures.

17 4. It is contemplated that Lewis and Roca will render the following legal  
18 services as counsel for the Committee:

19 a) Advise the Committee with respect to the powers and duties of the  
20 Committee in these Chapter 11 cases;

21 b) Consult with the Debtor concerning the administration of this case;

22 c) Advise the Committee with respect to the powers and duties of the  
23 Debtor in the continued operation of its business and the management of its assets in this  
24 Chapter 11 case;

25 d) Investigate the acts, conduct, assets, liabilities, and financial condition  
26 of the Debtor, the operation of the Debtor's business and the desirability of the

1 continuance of such business, and any other matter relevant to the case or to the  
2 formulation of a plan;

3 e) Participate in the negotiation, formulation, and drafting of a plan of  
4 reorganization, including modifications and amendments, and advise the Committee  
5 regarding the acceptance and confirmation process;

6 f) Prepare all necessary pleadings and papers pertaining to matters of  
7 bankruptcy law or the case, including, without limitation, appeals and other litigation as is  
8 necessary to represent the Committee;

9 g) Participate in any proceeding or hearing in the Bankruptcy Court, any  
10 federal appellate court, or any other judicial or administrative forum in which any action  
11 or proceeding may be pending which may affect the Debtor, its assets, or the claims of its  
12 creditors;

13 h) Advise the Committee with respect to the use, sale or lease of  
14 property, financing and the rejection and assumption of executor contracts and unexpired  
15 leases, among other things; and

16 i) All other legal services that may be necessary during the pendency of  
17 this Chapter 11 case on behalf of the Committee.

18 5. To the best of the Committee's knowledge, Lewis and Roca does not have  
19 any connection adverse to the interests of the unsecured creditors of the Debtor. The  
20 Verified Statement of Rob Charles pursuant to Rule 2014, is filed contemporaneously and  
21 incorporated by reference. That statement discloses the following:

22 a) Lewis and Roca was involved in discussions with the Official Committee Of  
23 Holders Of Executory Contract Rights Through USA Commercial Mortgage Company  
24 concerning joint representation of that committee with Jones Vargas, but did not represent  
25 the committee or obtain confidential information from that committee that would  
26 disqualify Lewis and Roca from representing the Committee.

1           b)     Lewis and Roca was briefly involved in preliminary discussions concerning  
2 representation of USA Capital Diversified Trust Deed Fund, LLC, but did not represent  
3 the committee or obtain confidential information from that committee that would  
4 disqualify Lewis and Roca from representing the Committee.

5           c)     Unsecured creditor and Committee member Robert A. Russell is a present  
6 client of Lewis and Roca on matters unrelated to this bankruptcy case. Lewis and Roca  
7 has advised Mr. Russell and the Committee of this matter and has agreed that Lewis and  
8 Roca will not represent the Committee on any matter adverse to Mr. Russell, and will not  
9 represent Mr. Russell on any matter concerning Debtors or their estates.

10          d)     Wells Fargo Bank and Wells Fargo Bank Nevada, then represented by Shea  
11 & Carlyon, which now represent another committee, have entered into a stipulation with  
12 the Debtors concerning a bank account. Lewis and Roca represents Wells Fargo Bank in  
13 matters unrelated to Debtors and will not represent the Committee on any matter adverse  
14 to Wells Fargo Bank, and will not represent Wells Fargo Bank on any matter concerning  
15 Debtors or their estates.

16          e)     Lewis and Roca regularly represents Fidelity National Title Insurance  
17 Company and its affiliates on matters unrelated to Debtors or their estates. Lewis and  
18 Roca will not represent the Committee on any matter adverse to Fidelity, and will not  
19 represent Fidelity on any matter concerning Debtors or their estates.

20          f)     Lewis and Roca represented Fidelity National Financial, Inc. as escrow  
21 agent in preparing escrow instructions for a direct loan in which USA Commercial became  
22 the servicing agent, the Palm Harbor Loan. That matter was concluded after the escrow  
23 instructions were prepared, and Lewis and Roca has had no ongoing representation or  
24 relationship to the matter thereafter.

25          g)     Lewis and Roca represented Sandvick Equipment & Supply Co. in a matter  
26 adverse to USA Commercial, which was concluded in October 2005 and closed in

1 December 2005.

2 h) From time to time, Lewis and Roca may be engaged by one or more of the  
3 Debtors' creditors and/or investors in matters entirely unrelated to the Debtors, because of  
4 the nature of Lewis and Roca's practice. Lewis and Roca represents clients in litigation,  
5 transaction, insolvency and other matters throughout the United States through its offices  
6 in Arizona, Nevada and New Mexico. Any such matter will not relate directly or  
7 indirectly to the representation of the Committee.

8 6. Accordingly, the Committee believes that the appointment of Lewis and  
9 Roca is in the best interest of the Committee, this estate, and the creditors.

10 7. The standard hourly compensation rates for the Lewis and Roca attorneys  
11 and paraprofessionals who are expected to render services to the Committee on this case  
12 are: Susan M. Freeman, Partner, \$510; Rob Charles, Partner, \$385; Scott K. Brown,  
13 Associate, \$320; Marilyn Schoenike, Certified Legal Assistant, \$185. Other Lewis and  
14 Roca attorneys and paralegals may render services on behalf of the Committee from time  
15 to time and their standard compensation rates will be used. The hourly rates set forth  
16 above are subject to periodic increases in the normal course of Lewis and Roca's business,  
17 due to, among other things, the increased experience of a particular professional. Lewis  
18 and Roca will charge for and seek reimbursement for its expenses, such as long distance  
19 telephone, telecopy, photocopies, computer research, travel expenses, postage, overnight  
20 mail, messengers, etc.

21 8. Lewis and Roca has agreed to comply with all applicable guidelines of the  
22 Office of the United States Trustee in seeking compensation in this case. Lewis and Roca  
23 has not received a retainer and is a disinterested person within the meaning of 11 U.S.C.  
24 §§ 101(14). Lewis and Roca has no connections with the Office of the United States  
25 Trustee, and no connections with other professionals in this case other than as professional  
26 colleagues. Lewis and Roca has not agreed to share its compensation, and no arrangement

LEWIS  
AND  
ROCA  
LLP  
LAWYERS

1 is proposed between the Committee and Lewis and Roca for compensation to be paid in  
2 this case.

3 **WHEREFORE**, the Committee requests the Court to enter an Order approving the  
4 Committee's retention of Lewis and Roca under the terms set forth herein.

5 Dated May 30, 2006.

6 **LEWIS AND ROCA LLP**

7  
8 By /s/ RC (#006593)  
9 Susan M. Freeman  
10 Rob Charles  
11 Scott K. Brown  
12 *Proposed Attorneys for Official Committee of*  
13 *Unsecured Creditors*

14 **OFFICIAL COMMITTEE OF UNSECURED**  
15 **CREDITORS**

16 By   
17 Donald R. Walker  
18 Committee Chair  
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